

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

MARCIA A. MASTRIN, M.D.

Holder of License No. 31029
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-05-0031A

**CONSENT AGREEMENT FOR
DECREE OF CENSURE**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Marcia A. Mastrin, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that she has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement of any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any

1 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
2 other pending or future investigation, action or proceeding. The acceptance of this
3 Consent Agreement does not preclude any other agency, subdivision or officer of this
4 State from instituting other civil or criminal proceedings with respect to the conduct that is
5 the subject of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof)
13 to the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that
21 will be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("violating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5
6 
7 MARCIA A. MASTRIN, M.D.

DATED: _____

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 31029 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-05-0031A after receiving a complaint regarding Respondent's care and treatment of a forty-five year-old male patient ("MS").

4. On December 29, 2004 MS presented to Respondent for treatment of "a problem with Oxycontin" that had been prescribed to him for a serious spinal condition. MS wanted Respondent to reduce or discontinue the prescribed dosage. During the office visit Respondent requested MS complete a one page pre-printed check list. MS listed his chief complaint on the pre-printed chief complaint listed as "CC:ADDICT[I]ON". Respondent signed the check list. Under check list item *Plan* Respondent checked "buprenorphine maintenance" and "detox". Respondent gave MS three syringes of Buprenorphine 2mg/ml to inject for three consecutive nights.

5. Respondent did not document the rationale of this plan, the criteria used to diagnose opioid addiction, or how MS's chronic pain would be managed. Respondent did not document if she obtained laboratory tests to support her diagnosis of addiction to opioids. Respondent did not document MS's history regarding the presence of drug seeking behavior, opioid addiction, pseudoaddiction, dependence, or tolerance. Respondent did not document MS's history regarding the presence or absence of abuse of non-opioid prescribed medications, illicit drugs, or alcohol – all of which can complicate treatment with buprenorphine. Respondent did not document MS's history of side effects or problems related to Oxycontin. Respondent did not document her criterion for

1 diagnosing MS with an addiction to opioids as set forth in the Diagnostic and Statistical
2 Manual of Mental Disorders (DSM-IV-TR) and the International Classification of Diseases.

3 6. Respondent did document under comments MS is "taking [Oxycontin] for
4 pain," referring to MS's Oxycontin prescription. However, Respondent did not document
5 the nature of the chronic pain condition for which MS was being prescribed Oxycontin.
6 Respondent did not document the etiology, duration, signs, symptoms, or location of MS's
7 chronic pain. Respondent did not document MS's history as to the nature of and response
8 to the previous and/or current pain management interventions. Respondent did not
9 document a review of MS's prior medical record and Respondent did not document any
10 communication from or to the current prescribing physician. Respondent performed a
11 physical examination, but her findings did not include any items that would relate to MS's
12 chronic pain problem. MS's name is not identified on the medical record and several notes
13 in the record are initialed by Respondent, but are not authored by her.

14 7. A physician is required to maintain adequate legible medical records
15 containing, at a minimum, sufficient information to identify the patient, support the
16 diagnosis, justify the treatment, accurately document the results, indicate advice and
17 cautionary warnings provided to the patient and provide sufficient information for another
18 practitioner to assume continuity of the patient's care at any point in the course of
19 treatment. A.R.S. § 32-1401(2). Respondent's records were inadequate because
20 Respondent failed to document: a work-up on MS; findings related to chronic pain from a
21 physical examination; and laboratory tests to support or establish a diagnosis MS's
22 addiction to opioids.

23 8. The standard of care when diagnosing and treating addiction in a chronic
24 pain patient requires a physician to conduct an appropriate evaluation for both chronic pain
25 and addiction. The standard of care requires a physician to objectively ascertain a

1 diagnosis of opioid addiction as defined in the latest edition of the DSM-IV in a candidate
2 for Buprenorphine treatment before initiating treatment. The standard of care also requires
3 a physician when using Buprenorphine in treatment for opioid addiction to meet the legal
4 conditions set forth in the Drug Addiction Treatment Act of 2000.

5 9. Respondent deviated from the standard of care because she failed to
6 conduct an appropriate evaluation for MS's chronic pain. Specifically, she failed to obtain
7 MS's relevant history, failed to perform an adequate physical examination, failed to obtain
8 and review medical records, and failed to make a diagnosis of opioid addiction prior to
9 instituting Buprenorphine. Respondent deviated from the standard of care because she
10 dispensed to MS pre-filled syringes of Buprenorphine for treatment of presumed opioid
11 addiction in violation of the Drug Addiction Treatment Act of 2000 that requires physicians
12 to use Buprenorphine formulations with FDA approval for treatment of opioid addiction.

13 10. Respondent's improper treatment and her prescribing in violation of the Drug
14 Addiction Treatment Act of 2000 could have led to MS's death, overdose, aspiration
15 pneumonia, and drug reactions.

16 **CONCLUSIONS OF LAW**

17 1. The Board possesses jurisdiction over the subject matter hereof and over
18 Respondent.

19 2. The conduct and circumstances described above constitute unprofessional
20 conduct pursuant to A.R.S. § 32-1401(27)(e) ("[f]ailing or refusing to maintain adequate
21 records on a patient.").

22 3. The conduct and circumstances described above constitute unprofessional
23 conduct pursuant to A.R.S. § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be
24 harmful or dangerous to the health of the patient or the public.").

1 4. The conduct and circumstances described above constitute unprofessional
2 conduct pursuant to A.R.S. § 32-1401 (27)(a) ("[v]iolating any federal or state laws, rules
3 or regulations applicable to the practice of medicine"), specifically, 21 USC 801 (3501) et.
4 seq.

5 **ORDER**

6 IT IS HEREBY ORDERED THAT:

7 1. Respondent is issued a Decree of Censure for improper treatment of opioid
8 addiction, improper prescription of Buprenorphine in an unapproved form, and for
9 inadequate medical records.

10 2. This Order is the final disposition of case number MD-05-0031A.

11 DATED AND EFFECTIVE this 9th day of February, 2008.7

12
13 (SEAL)



ARIZONA MEDICAL BOARD

14
15
16 By 

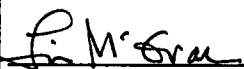
TIMOTHY C. MILLER, J.D.
Executive Director

17 ORIGINAL of the foregoing filed
18 this 9th day of February, 2008 with:

19 Arizona Medical Board
20 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

21 EXECUTED COPY of the foregoing mailed
22 this 9th day of February, 2008 to:

23 Marcia A. Mastrin, M.D.
Address of Record

24 

25 Investigational Review